

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

**PLAINTIFF'S RESPONSE TO DEFENDANTS' UNOPPOSED MOTION TO  
RESCHEDULE HEARING ON PLAINTIFF'S MOTION FOR SANCTIONS  
DUE TO DEFENDANTS SPOILATION OF EVIDENCE**

Plaintiff, Alamo Packing & Candy Company, responds to Defendant motion, Dkt. 20, for resetting as follows. On April 30, 2014 the Court ordered, Dkt. 19, the parties to appear for a hearing on May 19, 2014. As a courtesy to Defendants' counsel, Robert Bateman, in a telephone conference with Mr. Bateman at 4 p.m. on May 15, 2014, the undersigned counsel agreed to not oppose the request for resetting the hearing. However, Plaintiff requests that the court reset the hearing for as soon as possible. This motion is holding up Plaintiff's discovery so it should not be unduly delayed. Plaintiff and Plaintiff's counsel will make themselves available during the next two weeks to hear this motion.

May 15, 2014.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a)(1). The foregoing document was served on all counsel who are deemed to have consented to electronic service on May 15, 2014. Local Rule CV-5(b)(1).

/s/ Charles W. Hanor  
Charles W. Hanor

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

F & J SAMAME, INC. d/b/a ALAMO	§
PACKING & CANDY COMPANY,	§
Plaintiff,	§
v.	§ CIV. ACTION NO. 5:13-CV-365-XR
ARCO IRIS ICE CREAM,	§
FAMILIA ARCO IRIS LLC,	§
ELIAS VILLALPANDO,	§
RAFAEL VILLALPANDO,	§
SALVADOR VILLALPANDO,	§
GUILLERMO VILLALPANDO,	§
and RAUL VILLALPANDO,	§
d/b/a ARCO IRIS ICE CREAM	§
Defendants.	§

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**ORDER RESETTING THE HEARING ON PLAINTIFF'S MOTION FOR SANCTIONS  
AGAINST DEFENDANTS DUE TO SPOILATION OF EVIDENCE**

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On this day, the Court considered Defendants' motion, Doc. No. 20, to reset the hearing previously scheduled for May 19, 2014, Doc. No. 19, on Plaintiff's motion for sanctions. Doc. No. 18. Defendants have not responded within the time to do so, and there are unresolved factual questions that must be addressed before the Court can rule on this motion. Consequently, this case is set for a hearing on \_\_\_\_\_.

The hearing will take place at the John H. Wood Jr. United States Courthouse, Courtroom 3, located at 655 East Cesar E. Chavez Boulevard, San Antonio, Texas, 78206.

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Xavier Rodriguez  
United States District Judge